LYN/JSW/sid 3/18/2003

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Southern California Gas Company (U 904 G) Regarding Year Eight (2001-2002) of Its Gas Cost Incentive Mechanism.	Application 02-06-035 (Filed June 17, 2002)

REVISED SCOPING MEMO AND RULING OF THE ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE REGARDING YEAR EIGHT OF THE GAS COST INCENTIVE MECHANISM

Summary

Southern California Gas Company (SoCalGas) filed its Year Eight Gas Cost Incentive Mechanism (GCIM) application on June 17, 2002. Southern California Edison Company (SCE) filed a protest to the application on July 26, 2002.[1] A prehearing conference was held on November 6, 2002 to discuss whether the issues raised by SCE in its protest to the application should be examined in this application or elsewhere, and to determine the procedural schedule for processing this application. A scoping memo and ruling was issued on January 16, 2003. The scoping memo and ruling identified two issues in this proceeding, determined that no evidentiary hearings were required, and proposed that a draft decision be issued on the two issues.

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[1] A response to the application was filed by the Office of Ratepayer Advocates (ORA) on July 25, 2002, and a reply to SCE's protest was filed by SoCalGas on August 5, 2002.

In Order Instituting Investigation (I.) 02-11-040), which was adopted on November 21, 2002, the Commission opened an investigation into the cause of the natural gas border price spikes from March 2000 through May 2001. The first phase of that investigation will "focus on the Sempra Energy Companies to more fully explore the issues raised in SoCalGas' GCIM proceeding…." (I.02-11-040, p. 9.) The investigation also states that if "the conduct of the respondents contributed to the gas price spikes at the California border during the named period, it may modify or eliminate the respondent's [GCIM], reduce the amount of the shareholder award for the period involved, or order respondents to issue a refund to ratepayers to offset the higher rates paid." (I.02-11-040, p. 2.)

Due to the potential impact that I.02-11-040 could have on the shareholder award amount requested in this proceeding, the process and schedule set forth in the January 16, 2003 scoping memo and ruling should be revised. Instead of issuing a draft decision at this time for the Commission's consideration, further processing of this application should take place after there has been a Commission decision or a ruling on SoCalGas' actions during the period covered by I.02-11-040.

Background

SCE's protest to the SoCalGas' application asserts that the GCIM that SoCalGas operates under "creates perverse incentives, harms noncore customers, and has a detrimental impact on California energy markets." (SCE Protest, p. 3.) SCE also asserts that the GCIM formula "encourages and approves of actions by SoCalGas that raise natural gas prices to benefit company shareholders at the expense of core and noncore gas and electric customers." (Ibid.) SCE asserts that SoCalGas can use its transportation assets, along with its dominant position in the commodity markets at the California border, to benefit its shareholders through the GCIM. SCE also contends that the GCIM structure allows SoCalGas to exercise market power or other anticompetitive behavior to benefit SoCalGas' shareholders.

On November 21, 2002, the Commission adopted I.02-11-040, which opened an investigation into the following issues, among others:

> "2. Did any of the utilities' affiliates or parent companies play a role in causing the increase in border prices? Did concerns about affiliates or parents' financial position cause utilities to take actions that may have increased gas costs? . . .
>
> "4. Did the utilities' gas cost incentive mechanisms create perverse incentives to increase or otherwise manipulate natural gas prices at the California border? We shall examine whether SoCalGas' Year 7 and Year 8 operations under the GCIM, enabled them to exercise market power and / or anticompetitive behavior; If so, should these incentive mechanisms be modified or eliminated to prevent such activity." (I.02-11-040, p. 9.)

The scoping memo and ruling in this proceeding was issued on January 16, 2003.

Revised Scope And Schedule

The January 16, 2003 scoping memo and ruling identified two issues in this proceeding. The first issue is whether the calculation of the shareholder award for Year Eight under the GCIM is correct or not. The second issue is whether SoCalGas' acquisition operations during Year Eight were reasonable within the context of the authorized GCIM.

Since no one contested the manner in which the shareholder award was calculated for Year Eight, the scoping memo and ruling stated that the first issue could be resolved by examining the Office of Ratepayer Advocates' (ORA) Monitoring and Evaluation Report of December 20, 2002. Although the second issue was also addressed in ORA's report, SCE raised concerns in this proceeding about the GCIM structure, and whether SoCalGas' operations amounted to market power, anticompetitive behavior, or was a cause of the high gas prices experienced in late 2000 through spring 2001. The scoping memo and ruling stated that I.02-11-040 would provide a forum for addressing those concerns.

The scoping memo and ruling concluded that the two issues did not require evidentiary hearings, and that a draft decision would be issued on February 28, 2003.

Upon further review, the processing of the Year Eight GCIM application should be delayed until certain issues are resolved in I.02-11-040. In I.02-11-040, the Commission opened an investigation into the cause of price spikes of natural gas border prices from March 2000 through May 2001. The first phase of this investigation will "focus on the Sempra Energy Companies to more fully explore the issues raised in SoCalGas' GCIM proceeding…." (I.02-11-040, p. 9.) I.02-11-040 states that:

> "If the investigation reveals that the conduct of respondents contributed to the gas price spikes at the California border during the named period, it may modify or eliminate the respondent's [GCIM], reduce the amount of the shareholder award for the period involved, or order respondents to issue a refund to ratepayers to offset the higher rates paid. If the investigation reveals that statutory laws, or rules or orders of the Commission were violated, the Commission may enter into an adjudicatory phase of this investigation." (I.02-11-040, p. 2.)

Under the January 16, 2003 schedule, a draft decision was to be issued on the two issues without any hearings. However, if the draft decision recommends that the Commission adopt a shareholder award, that award could be affected at a later time if the Commission concludes in I.02-11-040 that SoCalGas' actions contributed to the price spikes at the California border in March 2000 through May 2001. I.02-11-040 leaves open the possibility that the Year Eight GCIM shareholder award could be reduced or eliminated and SoCalGas ordered to issue a refund.

Due to the uncertainty of the status of the Year Eight shareholder award amount, this proceeding should trail the outcome of I.02-11-040 on whether SoCalGas' actions affected the spikes in gas border prices during the investigation period. The issues identified in the scoping memo and ruling shall remain unchanged, but could be broadened at a later date depending on what happens in I.02-11-040. The procedural process and schedule adopted in the January 16, 2003 scoping memo and ruling shall be revised. Instead of issuing a draft decision at this point in time about the Year Eight shareholder award and whether SoCalGas' acquisition operations were reasonable within the context of the authorized GCIM, further processing of this proceeding shall await the outcome of I.02-11-040 with respect to SoCalGas. Although the January 16, 2003 scoping memo and ruling stated that no evidentiary hearings are needed in this proceeding, the need for evidentiary hearings may change depending on what occurs in I.02-11-040.

Since the Commission opened the investigation into the possible causes of high natural gas prices, the results of that investigation may impact SoCalGas' Year Eight GCIM application. As a result, the processing of this application is likely to take longer than 18 months from the filing of the Year Eight GCIM application.

The schedule for this proceeding shall be revised as follows. Following the adoption of a Commission decision or the issuance of a ruling regarding the actions of the Sempra energy companies, specifically that of SoCalGas, during the investigation period covered by I.02-11-040, a ruling will issue in this proceeding outlining one or more of the following: whether a prehearing conference is needed to discuss the impact of the results of I.02-11-040 on this proceeding; whether the scope of issues need to be revised; whether evidentiary hearings are needed; or whether a draft decision can be issued without the need for any hearings.

IT IS RULED that:

1. The January 16, 2003 Scoping Memo and Ruling shall be revised as set forth in this ruling.

2. The revised scope and schedule for the processing of this proceeding are as listed in the body of this ruling.

Dated March 18, 2003, at San Francisco, California.

/s/ LORETTA LYNCH
Loretta Lynch
Assigned Commissioner

/s/ JOHN S. WONG
John S. Wong
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Revised Scoping Memo and Ruling of the Assigned Commissioner and Administrative Law Judge Regarding Year Eight of the Gas Cost Incentive Mechanism on all parties of record in this proceeding or their attorneys of record.

Dated March 18, 2003, at San Francisco, California.

/s/ FANNIE SID
Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.